

REMARKS

Claims 1-16 are pending in this application. Claims 9-16 have been withdrawn from consideration. Applicants hereby amend independent claim 1 without prejudice. Applicants submit that no new matter has been added. Support for amended independent claim 1 can be found throughout the originally-filed claims and the specification, for example, in FIGS. 10 and 11. As such, claims 1-8 are now presented for the Examiner's reconsideration.

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by PCT Publication No. WO 97/27898 to Evard, *et al.* ("Evard"). Claims 4-6 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Evard in view of U.S. Patent No. 5,246,445 to Yachia, *et al.* ("Yachia"). Also, claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Evard in view of U.S. Patent No. 5,645,559 to Hachtman ("Hachtman").

Applicants respectfully traverse these rejections and request reconsideration of the claims in light of the amendments and the following remarks. Each of the outstanding rejections is addressed in the order in which they appear in the Office action.

35 U.S.C. § 102(b)

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by PCT Publication No. WO 97/27898 to Evard. Amended independent claim 1 recites a stent that is "positioned coaxially within the body lumen of the patient." Evard fails to teach a stent that is "positioned coaxially within the body lumen of the patient." Instead, Evard appears to disclose an apparatus for connecting and joining a first anatomical structure having a hollow inner space or lumen with a second anatomical structure also having a hollow innerspace of similar type.

See, for example, Evard at page 2, line 34 to page 3, line 3. In other words, Evard appears to disclose connecting adjacent anatomical lumens (two lumens configured in parallel) by positioning an apparatus transversely between the two anatomical lumens. See, for example, Evard at page 1, lines 22-29, and FIGS. 1, 8A, 10, 12, and 15A. Nothing in Evard teaches or suggests a stent that is “positioned coaxially within the body lumen of the patient” as recited in amended independent claim 1.

For at least this reason, Applicants submit that amended independent claim 1 is patentable over Evard. Because claims 2 and 3 depend either directly or indirectly from amended independent claim 1, and include all the limitations thereof, claims 2 and 3 are also patentable over Evard. As such, Applicants respectfully request reconsideration and withdrawal of this rejection.

35 U.S.C. § 103(a)

Claims 4-6 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Evard in view of Yachia, and claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Evard in view of Hachtman. Claims 4-8 depend directly or indirectly from amended independent claim 1.

As previously discussed, amended independent claim 1 recites, in part, a stent that is “positioned coaxially within the body lumen of the patient,” which Evard fails to teach or suggest.

Applicants respectfully submit that Yachia and Hachtman fail to cure the deficiencies of Evard with respect to amended independent claim 1. For example, Yachia appears to only disclose a medical device having a spatial spiral extension wound helically. In fact, Yachia teaches away from Applicants’ invention. Yachia teaches that it is preferred that the windings of

the device are non-uniform to the extent that at one or more locations intermediate of the two ends the diameter of the device is greater than at the ends such that at each such location a circumferential bulge of the otherwise cylindrical shape is created. See, Yachia at column 4, lines 15-21. In addition, Hachtman appears to only disclose a radially self-expanding stent having multiple layers of mesh formed of braided helically wound thread elements. Applicants, therefore, respectfully submit that neither Evard, nor Yachia, nor Hachtman, alone or in proper combination, provides the teaching or suggestion for one skilled in the art to arrive at a stent that includes a “coil segment comprising a wound element including one or more windings spaced from each other along at least a portion of the length of the coil segment and being reducible in width at least to an extent needed to pass the stent into the body lumen of the patient by winding the wound element, each of the distal and proximal portions including a diameter greater than a diameter of the middle portion when the stent is positioned coaxially within the body lumen of the patient,” as recited in amended independent claim 1.

In addition, Applicants submit that there is no suggestion or motivation, either in the cited references or in the knowledge generally available in the art, to combine either Yachia or Hachtman with Evard. At a minimum, such a combination would change the principle operation of Evard. As stated in MPEP § 2143.01, “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). See, MPEP § 2143.01.

Any modification of Yachia and/or Hachtman with Evard, at the very least, renders the references insufficient for their purpose. Evard appears to disclose an apparatus for connecting and joining a first anatomical structure having a hollow inner space or lumen with a second

anatomical structure also having a hollow innerspace of similar type. See, for example, Evard at page 2, line 34 to page 3, line 3. As mentioned previously, Evard appears to disclose connecting adjacent anatomical lumens (two lumens configured in parallel) by positioning an apparatus transversely between the two anatomical lumens. As such, any proposed modification or combination of either Yachia and/or Hachtman with Evard would change the principle of operation of Evard, which is to connect adjacent lumens by positioning an apparatus transversely between the two adjacent lumens. As such, amended independent claim 1 is patentable over either combination.

Because claims 4-8 depend either directly or indirectly from amended independent claim 1, and include all the limitations thereof, Applicants submit that claims 4-8 are also patentable as a matter of law, under 35 U.S.C. § 103(a) over the cited references. Accordingly, for the reasons provided herein, Applicants respectfully request reconsideration and withdrawal of these rejections.

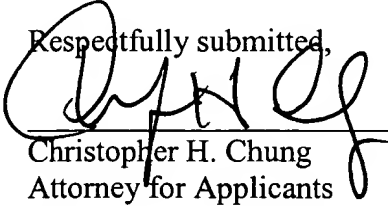
CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of claims 1-8 in due course. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

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Respectfully submitted,


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